

### **REMARKS**

The Examiner has rejected the claims based upon two prior art references – Klemis (U.S. Patent No. 5,199,124) and Friedman (U.S. Patent No. 6,044,505). For the reasons that follow, applicant traverses the Examiner's rejection and provides the following comments in support thereof.

Claims 1 through 6 and 9 were rejected as anticipated by Klemis. The Klemis patent shows a user employing a cushion that is strapped around the abdominal region. The cushion is a pad that functions to prevent the user from turning over to sleep on his or her stomach. As such, the pad is a trapezoid when seen in cross-section (taken along the longitudinal axis of the body of the user). The end walls of the pad adjacent the arms and legs appear to be straight. The trapezoidal shape of the Klemis pad makes it extremely narrow and presents very little surface area to the user, both above and below the torso. All of the surface area is in the lateral dimension – that is viewing it at a ninety-degree (90°) angle to the longitudinal axis of the user's body.

Claim 1 calls for a method of performing an abdominal crunch exercise which includes placing an object on the anterior torso and engaging the object with the user's upper arms and thighs and contracting the abdominal muscles. To begin with, Klemis does not teach the performance of this exercise. Klemis merely provides a pad to prevent the user from rolling over onto his stomach in his sleep. Secondly, the abdominal exercise of claim 1 could not be performed with the Klemis structure. Due to the narrow trapezoidal shape of the Klemis pad, there is no surface area for the upper thighs and arms of the user to engage in order to do an abdominal crunch exercise even if such were taught or suggested in the Klemis specification, which it is not.

Claim 3 calls for an exercise device having "a first surface sized and oriented to engage each of the arms of the user." The claim also calls for "a second surface sized and oriented to engage each of the thighs of the user." As pointed out above, the narrow trapezoidal shape of the Klemis pad prevents it from being characterized as having a surface at either end sized and oriented to engage either the arms or thighs of a user.

Claim 4 calls for a resistive force that is proportional to the degree of movement of the first and second surfaces. There is no such teaching in Klemis.

Claim 6 is a method claim that calls for the surfaces of the resilient pad to form obtuse angles with the first surface, which lies on the abdominal region of the user. The end surfaces of the Klemis pad are not formed at obtuse angles to the bottom surface that lies on the abdomen. The surfaces in the Klemis pad that are obtuse (the side surfaces) are not engageable by the arms and upper thighs of the user.

Claim 9 calls for an exercise device comprised of a resilient pad having a first substantially planar surface for placement on the abdomen of the user and first and second surfaces extending at obtuse angles to the first surface sized and shaped to engage the upper thighs and arms respectively of the user. As explained above, the Klemis pad does not provide for second and third surfaces extending at obtuse angles that are sized and shaped to engage the upper thighs or arms of a user.

Therefore, the rejection of claims 1 through 6 and 9 based upon Klemis under § 102(b) should be withdrawn.

Claims 7, 8 and 10 through 12 were rejected as unpatentable over Klemis further in view of Friedman. Friedman provides a pad that allows a pregnant woman to sleep on her stomach by providing a pad having a hollowed-out interior portion. Friedman does not teach or suggest any abdominal crunch exercise. Further, the hollowed-out portion of Friedman does not perform the function of changing the resistance of the pad to an abdominal crunch exercise. It merely provides a hollow recess to receive the abdomen of a pregnant female who wishes to sleep on her stomach. As pointed out above, Klemis teaches the use of a pad strapped around the waist to prevent a user from rolling over on his or her stomach. Thus, the two devices operate completely at cross-purposes. Further, there is no teaching in either reference that the compressible pad provided is to be used for anything resembling the method of performing a crunch exercise taught by the applicant. Lastly, there is no possible adaptation that could be made to the Friedman device to make it a compressible pad that is engageable by the arms and legs of the user for performing a crunch exercise. The pad is neither sized nor shaped to provide this function. It is triangular in nature so that there is no surface that is engageable by

the thighs of a user who might even attempt to use it for performing a crunch exercise (even if that function had been taught by Friedman's specification). Further, the Friedman pad is short. The surface portion extending upwardly from where it rests upon a user's abdominal section is too short to provide any functional resistance to a crunch exercise performed by a user. There is no surface area that can be engaged by either the arms of thighs of a user that would make it practical for use as a resistance to performing a crunch exercise.

Lastly, the voided portion of Friedman operates for an entirely different function from that taught by the invention. According to the invention and specifically claimed in claims 10, 11, 7 and 8, the void or hollow portion in the middle of the compressible and resilient pad is for allowing inserts of different resistances to change the resistance of the pad in the performance of the abdominal crunch exercise. There is no teaching in either Klemis or Friedman that any material is intended to be inserted into this void and, in fact, doing so would completely frustrate the purpose of Friedman's device.

For the reasons stated, applicant respectfully requests the withdrawal of the rejections of the claims based upon § 103 and urges that the claims be allowed and the case passed to issue.

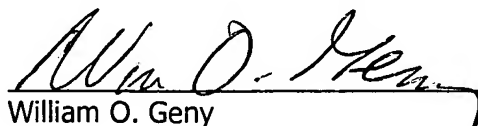
Respectfully submitted,

  
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#### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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